

**COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS  
MINUTES**

February 9, 2010

10:00 a.m. – 2:00 p.m.

State Courts Building, Room 119 A/B  
1501 W. Washington St. Phoenix, AZ 85007

**MEMBERS PRESENT**

Allison Bones  
Joi Davenport  
Dr. Kathy S. Deasy  
Joan Fox, DDS  
Gloria Full  
V. Michele Gamez, Esq.  
Professor Zelda Harris  
Honorable Lynda J. Howell  
Bridget Humphrey, Esq.  
Honorable Joseph P. Knoblock  
Patricia Madsen, Esq.  
Commander Scott Mascher  
Leah Meyers, GOCYF/DFW  
Chief Jerald Monahan  
Heidi Muelhaupt  
Honorable Cathleen Brown Nichols  
Doug Pilcher  
Marla Randall  
Honorable Emmet Ronan  
Honorable Kristi Youtsey Ruiz  
Andrea K. Sierra  
Rena Tenney  
Tracey Wilkinson

**MEMBERS ABSENT**

Laura Horsley  
Honorable Dennis Lusk  
Honorable Daniel G. Martin  
Honorable Wendy Million

**STAFF**

Kay Radwanski  
Lorraine Nevarez  
Tama Reily

**GUESTS**

Theresa Barrett, AOC  
Jannette Brickman, AzCADV  
Leslee Garner, Education Services  
Division, AOC  
Gabriel Goltz, Education Services  
Division, AOC  
Jeff Schrade, Education Services  
Division, AOC  
Dr. Neil Websdale, NDVFRI

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**I. CALL TO ORDER**

**A. Welcome and Opening Remarks**

Honorable Emmet Ronan, chair, called the February 9, 2010, meeting of the Committee on the Impact of Domestic Violence and the Courts (CIDVC) to order at 10:15 a.m. Judge Ronan welcomed the newly and reappointed members to the committee. They are Joi Davenport, Dr. Kathy Deasy, Gloria Full, V. Michele Gamez, Heidi Muelhaupt, Andrea Sierra, and Tracey Wilkinson.

**B. Approval of Minutes from November 10, 2009**

Minutes of the November 10, 2009, CIDVC meeting were presented for approval.

**MOTION:** Motion was made and seconded to approve the November 10, 2009, meeting

**minutes. Motion passed unanimously.**

## **II. Petition to Amend the Arizona Rules of Protective Order Procedure**

Honorable Elizabeth Finn, Glendale City Court, reported on a petition she filed to clarify Arizona Rules of Protective Order Procedure (ARPOP) Rule 4(B)(5)(b) regarding when cases should be transferred from a limited jurisdiction court to a superior court. The rule applies when there is no action pending in a family court but there is an active custody order applicable to a child, designated as a protected person on the protective order. Judge Finn's proposed rule change would require limited jurisdiction courts to transfer any protective order case in which a child named as an "other protected person" is the subject of an active custody, parenting time, or visitation order. Her goal is to avoid limited jurisdiction and superior courts from issuing conflicting orders.

### Committee Comments/Questions

- Would the change in the language in the petition apply to vulnerable adults?  
A: The revision does not contemplate that question.
- When a case involving pending family law issues is transferred to superior court, the judge has jurisdiction under Title 25. Would this be an avenue around filing a modification of a custody order? Would the superior court hear this as an Order of Protection? If parties wanted to change their custody order, would the parties still have to file the appropriate paper work?  
A: Judge Finn was not in the position to answer the questions. However, committee member Patricia Madsen recently presented this petition to the Committee on Superior Court for comment. Ms. Madsen received the following comments:
  - ✓ Some superior court judges did not feel they have jurisdiction to act on a custody action without an independent Title 25 petition being filed. Also, they did not see the benefit of the protective order being transferred to superior court if neither party had asked to modify a Title 25 action.
  - ✓ Concerns were raised about safety. COSC members were concerned that a petitioner who went to a municipal or justice court for a protective order would be sent to a superior court instead, when there is no pending action in superior court.
  - ✓ Questions were raised about proper venue if neither party currently lives in the county where the custody order had been issued. The parties would have to litigate in the original county that issued the custody order, regardless of their current residence.
  - ✓ The proposal would expand the rule to include Injunctions Against Harassment that would affect an active custody case, even if a party on the IAH is not named in the active custody order.
- Who is entitled to the notice of the hearings in the superior court? When additional people being brought into the family court hearings who are not parties to the custody order, are the parties left unaware? The Clerk of Courts Office would have to make sure the parties have correct information.  
A: The current transfer order requires the limited jurisdiction court to list the superior court case number. This simplifies matching the protective order to the correct family law case.

The committee referred the proposal to the ARPOP Workgroup for further discussion. The workgroup

will decide whether to draft a comment for the full committee to approve on May 11. The deadline for filing comments to rule petitions is May 20.

### **III. Additional Petitions to Amend the Arizona Rules of Protective Order Procedure**

Kay Radwanski, committee staff, reported that a person from the public has filed three petitions to amend various sections of ARPOP. The petitions address Rule 1(B)(1)(d), regarding interchangeable use of the words “victim” and “plaintiff” in the rules; Rule (1)(D)(4), regarding courtroom security; and Rule 6(E)(4)(e)(2), regarding firearms and Injunctions Against Harassment. The committee asked the ARPOP Workgroup to review the petitions for further discussion. The workgroup can draft a reply for the full committee to approve on May 11. The deadline for filing comments to rule petitions is May 20.

### **IV. Education Services Division Update**

Jeff Schrade, director of the Education Services Division, Administrative Office of the Courts (AOC), presented on the efforts of the Education Services Division (ESD) to provide training for judges and court staff on domestic violence. Mr. Schrade also introduced Gabriel Goltz and Leslee Garner, ESD staff who are assisting in the coordination of the training. Ms. Garner, education specialist, was hired under the Recovery Act STOP Grant that the AOC received last September. Mr. Goltz is program manager of the Judicial College of Arizona.

Mr. Schrade also reported the AOC is partnering with Glendale City Court, the Arizona Coalition Against Domestic Violence (AzCADV), AzPost, the Arizona Prosecuting Attorneys’ Advisory Council (APAAC), the Morrison Institute, the Phoenix Public Defenders Office, and the O’Conner House Avon Program for Women and Justice on a grant opportunity. A grant application has been put together for \$1 million from the Department of Justice. This grant, if received, will fund a coordinated and collaborative development of training resources in several disciplines around issues concerning domestic violence, assist in distributing educational materials, and fund the Third Annual Domestic Violence Summit. The partnership has been a huge collaborative effort.

Ms. Garner introduced herself, discussing her role to develop several domestic violence-related distance learning modules for judges and court staff and to develop a domestic violence manual for court staff.

### **V. Conference: New Directions in Domestic Violence Fatality Review**

Dr. Neil Websdale, Northern Arizona University (NAU), and director of the National Domestic Violence Fatality Review Initiative, reported on an upcoming conference regarding domestic violence fatality reviews that will be held on August 16-17 in Scottsdale. A number of speakers who are considered experts in the domestic violence field will participate. Dr. Websdale encouraged the committee to participate in this important coordinated community response to domestic violence and domestic homicide. He emphasized the importance of involving judges in DV fatality review. The goal of the fatality review is to study DV homicide cases and then implement change to assist victims. Team members offer different perspectives on why women are killed in DV situations.

### **VI. Legal Assistance for Domestic Violence Survivors**

Renae Tenney, Maricopa Association of Governments (MAG), and Jannette Brickman, AzCADV, presented on the results of a study, “The Availability and Awareness of Legal Assistance for Domestic

Violence Survivors,” that was completed to determine what kind of legal assistance domestic violence survivors need and if that assistance was readily assessable. The report had four key findings:

- Nearly one quarter of domestic violence survivors wanting legal assistance (filing paperwork, etc.) reported they did not receive services. The majority of professionals estimated that domestic violence survivors would benefit from this assistance.
- The majority of survivors wanting legal representation (attorneys) were not able to secure it.
- The number one reason survivors cited for not accessing legal representation is their inability to afford these services. The majority of professionals cited awareness as the biggest barrier to survivors securing legal representation.
- The majority of domestic violence survivors reported needing legal representation for future civil cases. They do not expect to be able to secure representation.

With these findings, MAG forwarded its recommendations to the AzCADV Legal Committee. The AzCADV Legal Committee has been assessing ways to improve legal assistance for survivors. They reported on the some of the programs available to survivors needing legal assistance:

- Modest Means Program - This program is offered at the Arizona Foundation for Legal Services and Education. Survivors can receive assistance for \$75 an hour. There is an income eligibility requirement for this program.
- Flat Fee Lawyer Program - This program allows attorneys to go online and post the services they can provide for a certain amount.
- Representation Law Firm - A lawyer can assist the survivor in any part of the process requested. Each request is \$90.

## **VII. Workgroup Reorganization**

Ms. Radwanski explained the various workgroups that committee members can join. These workgroups meet during the CIDVC meeting lunch hour. If a workgroup needs further meetings, the AOC can assist with arrangements. A workgroup member does not have to be an appointed member of the committee. The workgroups are as follows:

- *ARPOP* - This workgroup will review rule change petitions pertaining to ARPOP.
- *Best Practices*-This workgroup was created to respond to a report written by the Morrison Institute. This group will present the report at the upcoming Arizona Judicial Council (AJC) meeting.
- *CPOR Policy* - This workgroup assists in determining safeguards for the Court Protective Order Repository (CPOR) database.
- *Education* - This workgroup will assist Ms. Garner in developing ideas for staff and judicial training. To fulfill the Recovery STOP Grant requirements.
- *Forms and Processes* - This workgroup is responsible for reviewing the protective order forms and proposing changes to them as necessary.

## **VIII. Workgroup Report: Best Practices – Response to “System Alert” Report**

Ms. Tenney, Best Practices Workgroup member, made a presentation on the workgroup’s response to the Morrison Institute’s “Systems Alert” report. Then-Chief Justice Ruth McGregor asked CIDVC to respond to the report. The workgroup has drafted a report that will be presented to the AJC on March 25, 2010.

In preparing this report, the workgroup researched state and national best practices for developing improvements in responses to domestic violence. The workgroup addressed police and prosecution,

victim advocates and services, courts, offender treatment and domestic violence resources. The purpose of the response report was to give the professionals in the criminal justice system guidance, ideas, resources, and support in establishing best practices in domestic violence cases in their part of the system.

**MOTION: Motion was made and seconded to approve the Best Practice Report as written to present to AJC. Motion passed unanimously.**

## **IX. Workgroup Reports**

- A. *Forms and Processes* (Hon. Elizabeth Finn, chair) – The workgroup completed development of requirements for electronic filing for protective orders. The AOC is engaged in a large project in developing electronic filing statewide. Also, the workgroup periodically reviews the protective order forms.
- B. *Best Practices* (Hon. Wendy Million) – Ms. Tenney reported on the workgroup’s efforts as described in agenda item VIII.
- C. *ARPOP* (no designated chair) – The workgroup will undertake review of the four rule change petitions. Members will decide whether comments should be filed regarding the petitions, and if so, what the comments should state. The workgroup will present any proposed comments at the May 11 CIDVC meeting.
- D. *Education* (Allie Bones, chair) – Nine new members joined the workgroup during the lunch hour.
- E. *CPOR Policy* (no designated chair) - No update at this time.

## **X. Legislative Report**

Jerry Landau, AOC government affairs director, provided an update of legislative proposals of interest to the CIDVC that have been introduced in the Arizona Legislature. In addition to the bills listed below, the committee heard about HB 2650, which would extend the waiting period between filing of a petition for divorce and the time for trial or entry of a final decree from 60 days to 180 days. As currently drafted, the bill contains no exception for victims of domestic violence. SB 1314 also was discussed. This bill would create a presumption that “fit and capable” parents must be given joint legal custody of their children, unless one parent can prove that the other is unfit.

- SB 1055; Victims’ rights; disclosure of information (Sen. Paton)

<http://www.azsleg.gov/legtext/49leg/2r/bills/sb1055p.pdf>

Includes the court in the list of entities to which a crime victim’s information may be disclosed by an advocate providing services to the victim if consent is given by the victim and in the furtherance of any victim’s right.

Title affected: 13

S1055: VICTIMS’ RIGHTS; DISCLOSURE OF INFO      1/26 From Senate rules okay. Stricken form consent calendar by Rios.

- SB1059; Human Trafficking; definition (Sen. Paton)

<http://www.azleg.gov/legtext/49leg/2r/bills/sb1059p.pdf>

Rewrites the definition of “to traffic” in statutes pertaining to sex trafficking and human smuggling.

Title affected: 13

S1059: HUMAN TRAFFICKING; DEFINITION

2/2 From Senate rules okay.

- SB 1084; Injunction Against Harassment; fees (Sen. L. Gray)

<http://www.azleg.gov/legtext/49leg/2r/bills/sb1084p.pdf>

Removes the prohibition of charging fees for service of an Injunction Against Harassment arising from a dating relationship. Dating relationships are now covered under Orders of Protection.

Title affected: 12

S1084: INJUNCTION AGAINST HARASSMENT; FEES 2/1 passed Senate 28-0; ready for house.

- SB 1085; Order of Protection; animals (Sen. L. Gray)

<http://www.azleg.gov/legtext/49leg/2r/bills/sb1085p.pdf>

Would allow the court to issue an Order of Protection giving the petitioner exclusive rights to care for any animal living in the petitioner's residence and forbidding the respondent from having any contact with the animal.

Title affected: 13

S1085: ORDERS OF PROTECTION; ANIMALS

1/19 referred to Senate jud.

- SB 1086; Strangulation; Suffocation; Aggravated Assault (Sen. L. Gray)

<http://www.azleg.gov/legtext/49leg/2r/bills/sb1086p.pdf>

Adds strangulating or suffocating another person in a domestic violence incident the list of acts classified as aggravated assault. Mr. Landau said questions need to be resolved about the definition of some of the terms in this bill.

Title affected: 13

S1086: STRANGULATION; SUFFOCATION; AGGRAVATED ASSULT

1/19 referred

to Senate jud.

- SB 1087; Domestic Violence; definition; notice (Sen. L. Gray)

<http://www.azleg.gov/legtext/49leg/2r/bills/sb1087p.pdf>

Classifies the following as acts of domestic violence: negligent homicide, manslaughter, 1<sup>st</sup> and 2<sup>nd</sup> degree murder, sexual assault, intentionally or knowingly subjecting any animal under the person's custody or control to cruel neglect or abandonment that results in serious physical injury to the animal, intentionally preventing or interfering with the use of a telephone by another person in an emergency situation. Repeals the requirement that the court provide written notice to a defendant found guilty of a first offense included in domestic violence. The notice outlines consequences the person could face if convicted of a second or third offense. Mr. Landau noted that it is rare to find a provision in the law that requires a warning to a defendant not to do something again.

Title affected: 13

S1087: DOMESTIC VIOLENCE; DEFINITION; NOTICE

1/19 referred to Senate jud.

- SB 1162; Domestic Relations Committee; Membership (Sen. L. Gray)

<http://www.azleg.gov/legtext/49leg/2r/bills/sb1162p.pdf>

Membership of the Domestic Relations Committee would be expanded to include a gubernatorial appointee representing a statewide coalition that combats sexual assault and assists victims.

Title affected: 25

S1162: DOMESTIC RELATIONS COMMITTEE; MEMBERSHIP

2/8 to Senate

consent calendar.

- SB 1308; High School Instruction; dating violence (Sen. L. Gray)

<http://www.azleg.gov/legtext/49leg/2r/bills/sb1308p.pdf>

All public high schools (including charters) would be required to include in their curricula instruction on the recognition and prevention of dating violence (defined).

Tile affected: 38

S1308: HIGH SCHOOL INSTRUCTION; DATING VIOLENCE

2/1 referred to Senate educ.

## **XI. Call to the Public**

No public comment.

## **XII. Adjournment**

The meeting was adjourned at 1:55 p.m.

### **Next Meeting:**

Tuesday, May 11, 2010

10:00 a.m. – 2:00 p.m.

State Courts Building, Conference Room 119 A/B